

REMARKS

Claims 1 and 2 have been amended to more particularly define Applicants' claimed invention. Support for the amendment of claims 1 and 2 can be found in original claim 33. Claim 39 has been added to more particularly define Applicants' claimed invention. Support for the addition of claim 39 can be found in original claim 23. Claim 23 has been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-elected invention.

The rejection of claim 1 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention is respectfully traversed.

Applicants submit that the instant claims particularly point out and distinctly claim what Applicants regard to be their invention in full compliance with 35 U.S.C. 112, second paragraph. Definiteness of claim language must be analyzed, not in vacuum, but always in light of the teachings of the prior art and of the particular specification disclosure as it would be interpreted by one possessing an ordinary level of skill in the pertinent art. See In re Moore and Janoski (Court of Customs and Patent Appeals), 439 F2d 1232, 169 USPQ 236.

The Court of Customs and Patent Appeals stated in In re Gardner, Roe and Willey, 427 F2d 786, 166 USPQ 138, that breadth alone is not indefiniteness. A broad claim which employs well-known language conventionally used in the art to which the invention pertains, and which is of the same scope as the description of the invention as stated in the specification disclosure is not subject to rejection under the second paragraph of 35 U.S.C. 112, since the claim is neither too broad in the sense of embracing a concept not stated in the specification disclosure nor is it vague or indefinite. See In re Kamal and Rogier (Court of Customs and Patent

Appeals), 398 F2d 867, 158 USPQ 320 and also In re Borkowski and Van Venrooy (Court of Customs and Patent Appeals), 422 F2d 904, 164 USPQ 642.

With respect to “cyclopentadienyl-like”, it is submitted that the claims of the present application are definite and not unduly broad or vague in view of the criteria set forth in In re Moore et al., In re Gardner et al., In re Kamal et al., and In re Borkowski et al. A person skilled in the art would clearly know what the instant claims cover in view of the present specification disclosure and teachings of the prior art. All that is required by the second paragraph of 35 U.S.C. 112, as specified in In re Moore and Janoski, supra, is that the claims set out and circumscribe a particular area which Applicants regard as their invention with a reasonable degree of precision and particularity. Such a requirement is clearly met by Applicants' claimed invention.

In view of the above arguments, Applicants submit that the Examiner's rejection under 35 U.S.C. 112, second paragraph, is improper and should be withdrawn.

The rejection of claims 1, 37 and 38 under 35 U.S.C. 102(e) as being anticipated by or, in the alternative under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,605,735 (Kawano et al.) is respectfully traversed.

In view of the amendment of independent claim 1 (upon which claims 37 and 38 are dependent) to incorporate the subject matter of claim 33 (not rejected over Kawano et al.), this rejection is deemed improper and should be withdrawn.

The rejection of claims 1-13, 16-32, 37 and 38 under 35 U.S.C. 102(e) as being anticipated by or, in the alternative under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,465,669 (Okamoto) is respectfully traversed.

In view of the amendment of independent claims 1 and 2 (upon which the remaining rejected claims are directly or indirectly dependent) to incorporate the

subject matter of claim 33 (not rejected over Okamoto), this rejection is deemed improper and should be withdrawn.

The rejection of claims 14, 15, 35 and 36 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,465,669 (Okamoto) in view of U.S. Patent No. 6,482,740 (Soininen et al.) is respectfully traversed.

In view of the amendment of independent claim 2 (upon which claims 14, 15, 35 and 36 are directly or indirectly dependent) to incorporate the subject matter of claims 26, 27 and 33 (not rejected over Okamoto and Soininen et al.), this rejection is deemed improper and should be withdrawn.

The rejection of claims 33 and 34 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,465,669 (Okamoto) in view of U.S. Patent No. 4,970,093 (Sievers et al.) is respectfully traversed.

In view of the amendment of independent claim 2 (upon which claims 33 and 34 are directly or indirectly dependent) to incorporate the subject matter of claims 26 and 27 (not rejected over Okamoto and Sievers et al.), this rejection is deemed improper and should be withdrawn.

It is respectfully submitted that the rejections of record are improper and that the application is in condition for allowance. Accordingly, reconsideration and allowance of all claims are courteously solicited.

A response to the Office Action mailed July 11, 2007 is due October 11, 2007. Please charge any fees/surcharge which may be required by this paper, or credit any overpayment, to Deposit Account No. 16-2440.

Respectfully submitted,

/Gerald L. Coon, Reg. No. 29,910/
Gerald L. Coon
Reg. No. 29910
Attorney for Assignee

Danbury, Connecticut 06810-5113
(203) 837-2292
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Attorney Ref.: D-21267